IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

CRP.No. 534 of 2005()

AGAINST THE ORDER DATED 21/03/2005 IN IA.1976/00,IA.125/01 IN OS.33/1957 of SUB COURT, TIRUR

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REVN. PETITIONER: RESPONDENTS R3 TO R5, R14 TO 25:

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1. KHADEEJA, D/O. PATTARUMADATHIL BAPPU,
   AGED 68 YEARS, PATTARUMADATHIL, AYIRUR AMSOM DESOM
   (P.O) AYIROOR, PONANI TALUK, MALAPPURAM DISTRICT.

2. KUNHUSA, S/O. PATTARUMADATHIL BAPPU,
   AGED 66 YEARS, PATTARUMADATHIL, AYIRUR AMSOM DESOM
   (P.O) AYIROOR, PONANI TALUK, MALAPPURAM DISTRICT.

3. ABDUTTY, S/O. PATTARUMADATHIL BAPPU,
   AGED 62 YEARS, PATTARUMADATHIL AYIRUR AMSOM DESOM,
   (P.O) AYIROOR, PONANI TALUK, MALAPPURAM DISTRICT.

4. PATHUMMA, W/O. KAPPATTAKATH KONDATH BAVA
   AGED 63 YEARS, AYIRUR AMSOM, DESOM (P.O) AYIROOR,
   PONANI TALUK, MALAPPURAM DISTRICT.

5. MARIYAM BEEVI,
   D/O. KAPPATTAKATH KONDATH BAVA, AGED 53 YEARS AND
   WIFE OF UMMER, KANJOLIL HOUSE, AYIROOR,
   PERUMPADAPPU AMSOM DESOM, P.O. PERUMPADAPPU,
   PONANI TALUK.

6. MUHAMMEDUNNI,
   S/O. KAPPATTAKATH KONDATH BAVA, AGED 51 YEARS,
   PERUMPADAPPA AMSOM DESOM, PONANI TALUK,
   (P.O) PERUMPADAPPA, MALAPPURAM DISTRICT.

7. AYISUMMA,
   W/O. KARUPPAN VEETTIL MALIYAKKEL ABU,
   PERUMPADAPPU AMSOM DESOM, P.O. PERUMPADAPPU,
   PONANI TALUK.

8. BASHEER, S/O. KAPPATTAKATH KONDATH BAVA,
   AGED 47 YEARS, AYIROOR AMSOM DESOM, (P.O) AYIROOR,
   PONANI TALUK, MALAPPURAM DISTRICT.

9. ARIFA, D/O. KAPPATTAKATH KONDATH BAVA,
   AGED 45 YEARS, RESIDING AT AYIROOR AMSOM DESOM,

PONANI TALUK, (P.O) AYIROOR, MALAPPURAM DISTRICT.

10. ASKAR, S/O.KAPPATTAKATH KONDATH BAVA,
AGED 43 YEARS, AYIROOR AMSOM DESOM, PONANI TALUK,
(P.O) AYIROOR, MALAPPURAM DISTRICT.

11. SAFIYA, D/O.KAPPATTAKATH KONDATH BAVA,
AGED 41 YEARS, W/O. POOLAMTHARAKKAL USMAN,
AYIROOR AMSOM DESOM, (P.O) AYIROOR, PONANI TALUK,
MALAPPURAM DISTRICT.

12. SHEHTHAJ BEEGUM, AGED 61 YEARS,
W/O. PATTARUMADATHIL SAINUDHEEN, AYIROOR AMSOM,
DESOM, (P.O) AYIROOR, PONANI TALUK,
MALAPPURAM DISTRICT.

13. THAJUDHEEN, AGED 41 YEARS,
S/O. PATTARUMADATHIL SAINUDHEEN,AYIROOR AMSOM,
DESOM, (P.O) AYIROOR, PONANI TALUK,
MALAPPURAM DISTRICT.

14. SHAMSUDHEEN, AGED 40 YEARS,
S/O. PATTARUMADATHIL SAINUDHEEN, AYIROOR AMSOM,
DESOM, (P.O) AYIROOR, PONANI TALUK
MALAPPURAM DISTRICT.

15. SIRAJUDHEEN, AGED 37 YEARS,
S/O. PATTARUMADATHIL SAINUDHEEN, AYIROOR AMSOM
DESOM, (P.O) AYIROOR, PONANI TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENTS: PETITIONERS 1,3 AND 4 IN IA/RESPONDENTS 1,2,6 TO12
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1. ULIYATHEL KUNHIMAMU, AGED 59 YEARS,
S/O. ULIYATHEL POOVA UMMA, ULIYATHEL HOUSE,
(P.O) AYIROOR, AYIROOR AMSOM DESOM, PONAI TALUK,
MALAPPURAM DISTRICT.

2. IYYATHUMMA, AGED 47 YEARS,
D/O. ULIYATHEL POOVA UMMA, ULIYATHEL HOUSE,
(P.O) AYIROOR, AYIROOR AMSOM DESOM, PONANI TALUK,
MALAPPURAM.

3. JAMEELA UMMA, AGED 44 YEARS,
D/O. ULIYATHEL POOVA UMMA, ULIYATHEL HOUSE,
(P.O) AYIROOR, AYIROOR AMSOM DESOM, PONANI TALUK,
MALAPPURAM DISTRICT.

4. MUHAMMED, S/O. PATTARUMADATHIL BAPPU,
AGED 76 YEARS, PATTARUMADATHIL HOUSE,
(P.O) AYIROOR, AYIROOR AMSOM DESOM, PANANI TALUK,
MALAPPURAM DISTRICT.

** 5. SAINUDHEEN, AGED 72 YEARS,
PATTARUMADATHIL BAPPU, PATTARUMADATHIL HOUSE,
(P.O) AYIROOR, AYIROOR AMSOM, DESOM, PANANI TALUK,
MALAPPURAM DISTRICT.

6. FATHIMA, D/O. PATTARUMADATHIL BAPPU,
AGED 59 YEARS, AYIROOR AMSOM, DESOM, (P.O) AYIROOR
PONANI TALUK, MALAPPURAM DISTRICT.

7. SAFIYA, D/O.PATTARUMADATHIL BAPPU,
AGED 57 YEARS, PATTARUMADATHIL HOUSE,
(P.O) AYIROOR, AYIROOR AMSOM DESOM, PONANI TALUK,
MALAPPURAM DISTRICT.

8. SULAIKHA,
D/O. AMBALATHU VEETTIL MUHAMMEDUNI,
W/O. CHEKKU MOULAVI, AMBALATH VEETTIL HOUSE,
(P.O) AYIROOR, AYIROOR AMSOM DESOM, PONANI TALUK,
MALAPPURAM DISTRICT.

9. SHEREEFA,
D/O. AMBALATHU VEETTIL MUHAMEDUNNI,
AMBALATH VEETTIL HOUSE, (P.O) AYIROOR,
AYIROOR AMSOM, DESOM, PONAI TALUK,MALAPPURAM DIST.

10. AFSA, D/O.AMBALATHU VEETTIL MUHAMEDUNNI,
AMBALATH VEETTIL HOUSE, (P.O) AYIROOR,
AYIROOR AMSOM, DESOM, PONANI TALUK,MALAPPURAM DIST

11. SANIYU,D/O.AMBALATHU VEETTIL MUHAMEDUNNI
AMBALATH VEETTIL HOUSE, (P.O) AYIROOR,
AYIROOR AMSOM DESOM, PONANI TALUK,MALAPPURAM DIST.

12. ABDUL MAJEED,
S/O. AMBALATHU VEETTIL MUHAMEDUNNI,
AMBALATH VEETTIL HOUSE, (P.O) AYIROOR,
AYIROOR AMSOM DESOM, PONANI TALUK,MALAPPURAM DIST.

** RESPONDENT NO:5 IS SAID TO BE NO MORE AND PETITIONERS 12 TO 15 ARE THE L.R'S OF R5 AND R5 IS DELETED FROM THE PARTY ARRAY AT THE RISK OF THE PETITIONER AS PER ORDER DT.13.10.05 IN I.A.2797/05

R1 TO 3 BY ADV. SRI.DEVAN RAMACHANDRAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A. 1418/05 IN C.R.P. 534/05

DISMISSED:

26.6.2007 SD/- M.N. KRISHNAN, JUDGE

jj /TRUE COPY/

P.A. TO JUDGE

M.N.KRISHNAN, J.

C.R.P.No.534 OF 2005 G

Dated this the 26th June, 2007.

O R D E R

This revision is preferred challenging the order of the Subordinate Judge's Court, Tirur in I.A.125/2001 . The suit was one for partition and ultimately a final decree application was filed as I.A.418/90. During the pendency of the final decree proceedings the sharers compromised the matter and in accordance with the compromise a final decree was passed. Respondents 34 to 37 though not sharers had claimed exclusive tenancy right over item 1 of 'B' schedule property and therefore the said item according to them is not divisible by metes and bounds but as the superior land lord the sharers may be entitled to get compensation under the Kerala Land Reforms Act. So without junction of respondents 34 to 37 there could not have been a compromise with respect to item 1 of 'B' schedule property. I am informed that the said item 1 of 'B' schedule is divided as item 7 in 'A' schedule and item 4 in 'B' schedule in the compromise petition I.A.1976/00. Since the dispute now centres round only with respect to one item of property there need not be a setting aside of entire final decree but it need be set aside only with respect to item 1 of 'B' schedule of the plaint. Therefore, any division effected

behind the back of respondents 34 to 37 by virtue of the compromise will not be binding and it requires adjudication at the hands of the court. Therefore the compromise recorded and final decree passed with respect to item 1 of 'B' schedule is set aside keeping in tact the remaining compromise and the final decree order. The court below is directed to consider the claim of respondents 34 to 37 with respect to item 1 of 'B' schedule property after hearing the necessary parties. To that extent the order passed by the Subordinate Judge's Court is modified and the matter is remitted back to the said court for consideration in accordance with law. Parties are directed to appear before the learned Subordinate Judge, Tirur on 28.7.2007. Being an old matter i.e a suit of 1957 the Subordinate Judge's Court shall try to dispose of the matter as expeditiously as possible and not later than four months from the date of appearance of the parties before the said court. C.R.P is disposed of accordingly.

M.N.KRISHNAN
Judge

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